

107TH CONGRESS
1ST SESSION

H. R. 118

To establish a program to provide grants to States to test innovative ways to increase nursing home staff levels, reduce turnover, and improve quality of care for residents in nursing homes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mr. HOLT introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a program to provide grants to States to test innovative ways to increase nursing home staff levels, reduce turnover, and improve quality of care for residents in nursing homes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nursing Home Staff-
5 ing and Quality Improvement Act of 2001”.

1 **SEC. 2. GRANTS TO STATES FOR IMPROVEMENTS IN NURS-**
2 **ING HOME STAFFING AND QUALITY.**

3 (a) SECRETARY'S AUTHORITY TO AWARD GRANTS.—

4 The Secretary of Health and Human Services shall estab-
5 lish a program of competitive grants to States, in accord-
6 ance with the provisions of this section, for the purpose
7 of improving the quality of care furnished in nursing
8 homes operating in the State.

9 (b) APPLICATIONS AND ELIGIBILITY FOR GRANTS.—

10 (1) INITIAL APPLICATION.—A State seeking a
11 grant to conduct a project under this section shall
12 submit an application containing such information
13 and assurances as the Secretary of Health and
14 Human Services may require, including—

15 (A) a commitment to submit annual re-
16 ports describing the State's progress in increas-
17 ing staffing levels and making other quality im-
18 provements in nursing homes in the State; and

19 (B) a description of a plan for evaluation
20 of the activities carried out under the grant, in-
21 cluding a plan for measurement of progress to-
22 ward the goals and objectives of the program,
23 consistent with the principles of the Govern-
24 ment Performance and Results Act.

25 (2) CONSULTATION WITH PUBLIC.—Before sub-
26 mitting an application for a grant under this section,

1 a State shall solicit and consider the views of mem-
2 bers of the public, nursing home residents or their
3 representatives, and other persons concerned with
4 the administration of nursing homes within the
5 State with respect to the design of the proposed
6 State program.

7 (3) ELIGIBILITY.—

8 (A) INITIAL ELIGIBILITY.—A State shall
9 not be eligible for a grant award under this sec-
10 tion unless it makes assurances satisfactory to
11 the Secretary of Health and Human Services
12 that the skilled nursing facilities (as defined in
13 section 1819(a) of the Social Security Act (42
14 U.S.C. 1395i–3(a))) and nursing facilities (as
15 defined in section 1919(a) of such Act (42
16 U.S.C. 1396r(a))) within the State will reach or
17 exceed the minimum staff level described in
18 subsection (d)(2) within two years after the
19 date of the enactment of this Act and will main-
20 tain such level throughout the remainder of the
21 grant program.

22 (B) CONTINUING ELIGIBILITY.—A State
23 shall not be eligible for the continuation of
24 grant funding under a multi-year grant under
25 this section unless the State demonstrates to

1 the satisfaction of the Secretary of Health and
2 Human Services that it continues to meet the
3 requirement described in subparagraph (A) and
4 has made sufficient progress in meeting the
5 goals described in its grant application.

6 (c) USE OF GRANT FUNDS.—Funds received by a
7 State under this section may be provided to entities in-
8 cluding nursing homes, labor management partnerships,
9 and educational institutions, and may be used for any or
10 all of the following purposes:

11 (1) To enable a nursing home to recruit addi-
12 tional nursing staff or to retain existing nursing
13 staff (including through the use of reasonable finan-
14 cial incentives or reasonable benefit enhancements).

15 (2) To increase education and training of nurs-
16 ing staff (including designing or implementing pro-
17 grams to promote the career advancement of cer-
18 tified nurse aides).

19 (3) To provide bonuses to nursing homes meet-
20 ing State quality standards or avoiding serious qual-
21 ity violations for a period of one or more years.

22 (4) Such other nursing home staffing and qual-
23 ity improvement initiatives as the Secretary of
24 Health and Human Services may approve.

25 (d) DISTRIBUTION OF FUNDS.—

1 (1) IN GENERAL.—Subject to subsection (b), in
2 awarding grants under this section, the Secretary of
3 Health and Human Services shall award no more
4 than 25 percent of the funds to States in which, as
5 of the date of the enactment of this section, skilled
6 nursing facilities and nursing facilities have reached
7 or exceeded the minimum staff level specified in
8 paragraph (2) (as determined by the Secretary).

9 (2) MINIMUM NURSING HOME STAFF LEVEL.—

10 (A) IN GENERAL.—Subject to subpara-
11 graph (B), for purposes of subsection (b) and
12 paragraph (1), the level specified in this para-
13 graph for a skilled nursing facility or nursing
14 facility is a staff level sufficient to ensure that
15 each resident receives from a certified nurse
16 aide at least two hours per day of direct care
17 (including repositioning the resident and chang-
18 ing wet clothes, assisting with feeding, exercise,
19 and toileting, and working to enhance a resi-
20 dent's independence with respect to activities of
21 daily living).

22 (B) SECRETARY'S AUTHORITY TO IN-
23 CREASE MINIMUM STAFF LEVEL.—The Sec-
24 retary of Health and Human Services may es-
25 tablish a minimum staff level that is higher

1 than that specified in subparagraph (A). Any
2 such revised staff level shall be effective no ear-
3 lier than six months after the date on which
4 Secretary provides notice to States of the new
5 requirement.

6 (3) MULTI-YEAR GRANT FUNDS.—The Sec-
7 retary of Health and Human Services shall award
8 any multi-year grant under this section from
9 amounts appropriated (or available pursuant to sub-
10 section (e)(2)) for the first fiscal year of the grant.

11 (e) APPROPRIATIONS AND AVAILABILITY OF CIVIL
12 MONEY PENALTY (CMP) COLLECTIONS.—

13 (1) APPROPRIATIONS.—There are appropriated
14 to the Secretary of Health and Human Services, out
15 of any money in the Treasury not otherwise appro-
16 priated, for all costs for carrying out the program
17 under this section \$200,000,000 for each of fiscal
18 years 2001 through 2005, such funds to remain
19 available to the Secretary through the end of the
20 first succeeding fiscal year.

21 (2) AVAILABILITY OF CMP COLLECTIONS.—In
22 addition to the amounts appropriated pursuant to
23 paragraph (1), there shall be available to the Sec-
24 retary of Health and Human Services for such costs
25 for such fiscal years any amounts deposited in the

1 Nursing Facility Civil Money Penalties Collection
2 Account established under section 4.

3 **SEC. 3. ENHANCED NURSING FACILITY REPORTING RE-**
4 **QUIREMENTS.**

5 (a) MEDICARE.—

6 (1) SUBMISSION OF NURSING STAFF LEVEL
7 DATA TO THE SECRETARY.—Section 1819(b) of the
8 Social Security Act (42 U.S.C. 1395i–3(b)), as
9 amended by section 941(a) of the Medicare, Med-
10 icaid, and SCHIP Benefits Improvement and Pro-
11 tection Act of 2000 (as enacted into law by section
12 1(a)(6) of Public Law 106–554), is amended by add-
13 ing at the end the following new paragraph:

14 “(9) DATA ON STAFFING LEVELS.—

15 “(A) SUBMISSION TO SECRETARY.—A
16 skilled nursing facility shall submit to the Sec-
17 retary, in such form and manner and at such
18 intervals as the Secretary may require, data
19 with respect to nursing staff of the facility.
20 Such data shall include the total number of
21 nursing staff hours furnished during the period
22 specified by the Secretary (including totals for
23 each shift worked during such period) by the
24 facility to residents for which payment is made
25 under section 1888(e), broken down by total

certified nurse aide hours, total licensed practical or vocational nurse hours, and total registered nurse hours, and shall also include the average wage rate for each class of nursing staff employed by the facility.

“(B) PUBLICATION.—The Secretary shall provide for the publication on the Internet site of the Department of Health and Human Services known as Nursing Home Compare the facility-specific nursing staff information collected pursuant to subparagraph (A). The Secretary shall update such information periodically.”.

(2) POSTING OF INFORMATION ON NURSING FACILITY STAFFING.—Section 1819(b)(8)(A) of the Social Security Act (42 U.S.C. 1395i–3(b)(8)(A)), as added by such section 941(a), is amended by striking “for each shift” and inserting “for each nursing unit of the facility and for each shift”.

(3) INFORMATION CONCERNING PATIENT CLASSIFICATION.—Section 1819(b)(4)(C) of the Social Security Act (42 U.S.C. 1395i–3(b)(4)(C)) is amended by adding at the end the following new clause:

“(iii) INFORMATION CONCERNING RESIDENTS.—The skilled nursing facility

shall provide the Secretary, in such form and manner and at such intervals as the Secretary may require, a classification of all residents of the skilled nursing facility that accords with the patient classification system described in section 1888(e)(4)(G)(i), or such successor system as the Secretary may identify.”.

(b) MEDICAID.—

(1) IN GENERAL.—Section 1919(b) of the Social Security Act (42 U.S.C. 1396r(b)), as amended by section 941(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), is amended by adding at the end the following new paragraph:

“(9) DATA ON STAFFING LEVELS.—

“(A) SUBMISSION TO SECRETARY.—A nursing facility shall submit to the Secretary, in such form and manner and at such intervals as the Secretary may require, data with respect to nursing staff of the facility. Such data shall include the total number of nursing staff hours furnished during the period specified by the Secretary (including totals for each shift

1 worked during such period) by the facility to
2 residents for which payment is made under this
3 title, broken down by total certified nurse aide
4 hours, total licensed practical or vocational
5 nurse hours, and total registered nurse hours,
6 and shall also include the average wage rate for
7 each class of nursing staff employed by the fa-
8 cility.

9 “(B) PUBLICATION.—The Secretary shall
10 provide for the publication on the Internet Site
11 of the Department of Health and Human Serv-
12 ices known as Nursing Home Compare the fa-
13 cility-specific nursing staff information collected
14 pursuant to subparagraph (A). The Secretary
15 shall update such information periodically.”.

16 (2) POSTING OF INFORMATION ON NURSING FA-
17 CILITY STAFFING.—Section 1919(b)(8)(A) of the So-
18 cial Security Act (42 U.S.C. 1396r(b)(8)(A)), as
19 added by such section 941(b), is amended by strik-
20 ing “for each shift” and inserting “for each nursing
21 unit of the facility and for each shift”.

22 (3) INFORMATION CONCERNING PATIENT CLAS-
23 SIFICATION.—Section 1919(b)(4)(C) of the Social
24 Security Act (42 U.S.C. 1396r(b)(4)(C)) is amended
25 by adding at the end the following new clause:

1 “(iv) INFORMATION CONCERNING
 2 RESIDENTS.—The nursing facility shall
 3 provide the Secretary, in such form and
 4 manner and at such intervals as the Sec-
 5 retary may require, a classification of all
 6 residents of the nursing facility that ac-
 7 cords with the patient classification system
 8 described in section 1888(e)(4)(G)(i), or
 9 such successor system as the Secretary
 10 may identify.”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall take effect on the date that is one year
 13 after the date of the enactment of this Act.

14 **SEC. 4. NURSING FACILITY CIVIL MONEY PENALTY COL-**
 15 **LECTIONS.**

16 (a) ESTABLISHMENT OF NURSING FACILITY CIVIL
 17 MONEY PENALTY COLLECTIONS ACCOUNT.—Section
 18 1128A of the Social Security Act (42 U.S.C. 1320a–7a)
 19 is amended by adding at the end the following new sub-
 20 section:

21 “(o) ESTABLISHMENT OF NURSING FACILITY CIVIL
 22 MONEY PENALTY COLLECTIONS ACCOUNT.—There is
 23 hereby established an account to be known as the ‘Nursing
 24 Facility Civil Money Penalties Collection Account’ (here-
 25 after in this subsection referred to as the ‘Account’). Not-

1 withstanding any other provision of law, there shall be de-
 2 posited into the Account the Secretary's share of any civil
 3 monetary penalties collected under sections 1819 and
 4 1919, all such amounts to be available without fiscal year
 5 limitation for repaying the Secretary's share of amounts
 6 owed to skilled nursing facilities or nursing facilities pur-
 7 suant to the final sentence of sections 1819(h)(2)(B)(ii)
 8 and 1919(h)(2)(B)(ii), and for awarding grants under sec-
 9 tion 2 of the Nursing Home Staffing and Quality Improve-
 10 ment Act of 2000.”.

11 (b) AUTHORITY TO COLLECT CMPs IMME-
 12 DIATELY.—

13 (1) MEDICARE.—Section 1819(h)(2)(B)(ii) of
 14 the Social Security Act (42 U.S.C. 1395i-
 15 3(h)(2)(B)(ii)) is amended by inserting before the
 16 final period “, except that, notwithstanding section
 17 1128A(c)(2) or any other provision of law, the Sec-
 18 retary, upon determining that a civil money penalty
 19 should be imposed against a skilled nursing facility
 20 pursuant to this paragraph, shall take immediate ac-
 21 tion to collect such penalty (except where the Sec-
 22 retary finds that such action could jeopardize the
 23 health or welfare of residents of the skilled nursing
 24 facility). In collecting such penalty, the Secretary
 25 may deduct the amount of the penalty from amounts

1 otherwise payable to the facility under this title or
2 take such other actions as the Secretary considers
3 appropriate. If the Secretary's imposition of a pen-
4 alty under this paragraph is set aside, in whole or
5 in part, as a result of a hearing under section
6 1128A(c)(2) (or an appeal therefrom) or by a court
7 of competent jurisdiction, and the Secretary elects
8 not to pursue an appeal of such judgment; or has
9 exhausted all appeals, the Secretary shall repay any
10 amount owed to the skilled nursing facility with ac-
11 crued interest”.

12 (2) MEDICAID.—Section 1919(h)(3)(B)(ii) of
13 the Social Security Act (42 U.S.C.
14 1396r(h)(3)(B)(ii)) is amended by inserting before
15 the final period “, except that, notwithstanding sec-
16 tion 1128A(c)(2) or any other provision of law, the
17 Secretary, upon determining that a civil money pen-
18 alty should be imposed against a nursing facility
19 pursuant to this paragraph, shall take immediate ac-
20 tion to collect the penalty (except where the Sec-
21 retary finds that such action could jeopardize the
22 health or welfare of residents of the nursing facility).
23 In collecting such penalty, the Secretary may direct
24 the State to deduct the amount of the penalty from
25 amounts otherwise payable to the nursing facility

1 under this title or take such other actions as the
2 Secretary, in consultation with the State, considers
3 appropriate. If the Secretary's imposition of a pen-
4 alty under this paragraph is set aside, in whole or
5 in part, as a result of a hearing under section
6 1128A(c)(2) (or an appeal therefrom) or by a court
7 of competent jurisdiction, and the Secretary elects
8 not to pursue an appeal of such judgment, or has
9 exhausted all appeals, the Secretary shall repay, or
10 shall direct the State to repay, any amount owed to
11 the nursing facility with accrued interest”.

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